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106TH CONGRESS  
1ST SESSION

# H. R. 745

To amend title XVIII of the Social Security Act to provide for coverage of substitute adult day care services under the Medicare Program.

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## IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 11, 1999

Mr. STARK (for himself, Mr. CARDIN, Mr. RANGEL, Mr. LEWIS of Georgia, Mr. WAXMAN, Mrs. MINK of Hawaii, Mr. BRADY of Texas, Mr. HINCHHEY, Mr. BENTSEN, Mr. BALDACCI, Mr. WISE, Mr. FROST, Mr. GEORGE MILLER of California, Mr. ROMERO-BARCELÓ, Mr. STUPAK, Mr. SHOWS, Mr. HILLIARD, Mrs. CLAYTON, Mr. SANDERS, Ms. DELAURO, and Mr. KLECZKA) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To amend title XVIII of the Social Security Act to provide for coverage of substitute adult day care services under the Medicare Program.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "Medicare Substitute  
5 Adult Day Care Services Act of 1999".

1 **SEC. 2. COVERAGE OF SUBSTITUTE ADULT DAY CARE SERV-**  
 2 **ICES UNDER MEDICARE.**

3 (a) **SUBSTITUTE ADULT DAY CARE SERVICES BENE-**  
 4 **FIT.—**

5 (1) **IN GENERAL.**—Section 1861(m) of the So-  
 6 cial Security Act (42 U.S.C. 1395x(m)) is  
 7 amended—

8 (A) in the matter preceding paragraph (1),  
 9 by inserting “or paragraph (8)” after “para-  
 10 graph (7)”;

11 (B) in paragraph (6), by striking “and” at  
 12 the end;

13 (C) in paragraph (7), by adding “and” at  
 14 the end; and

15 (D) by inserting after paragraph (7), the  
 16 following new paragraph:

17 “(8) substitute adult day care services (as de-  
 18 fined in subsection (uu));”.

19 (2) **SUBSTITUTE ADULT DAY CARE SERVICES**  
 20 **DEFINED.**—Section 1861 of such Act (42 U.S.C.  
 21 1395x) is amended by adding at the end the follow-  
 22 ing new subsection:

23 “Substitute Adult Day Care Services; Adult Day Care  
 24 Facility

25 “(uu)(1)(A) The term ‘substitute adult day care serv-  
 26 ices’ means the items and services described in subpara-

1 graph (B) furnished to an individual by an adult day care  
 2 facility as a part of a plan under subsection (m) substitut-  
 3 ing such services for a portion of the items and services  
 4 described in subparagraph (B)(i) furnished by a home  
 5 health agency under the plan, as determined by the physi-  
 6 cian establishing the plan.

7 “(B) The items and services described in this sub-  
 8 paragraph are the following items and services:

9 “(i) Items and services described in paragraphs  
 10 (1) through (7) of subsection (m).

11 “(ii) Transportation of the individual to and  
 12 from the adult day care facility in connection with  
 13 any such item or service.

14 “(iii) Meals.

15 “(iv) A program of supervised activities de-  
 16 signed to promote physical and mental health and  
 17 furnished to the individual by the adult day care fa-  
 18 cility in a group setting for a period of not fewer  
 19 than four and not greater than twelve hours per day.

20 “(2)(A) Except as provided in subparagraph (B), the  
 21 term ‘adult day care facility’ means a public agency or  
 22 private organization, or a subdivision of such an agency  
 23 or organization, that—

24 “(i) is engaged in providing skilled nursing  
 25 services and other therapeutic services;

1           “(ii) meets such standards established by the  
 2       Secretary to assure quality of care and such other  
 3       requirements as the Secretary finds necessary in the  
 4       interest of the health and safety of individuals who  
 5       are furnished services in the facility; and

6           “(iii) meets the requirements of paragraphs (2)  
 7       through (8) of subsection (o).

8           “(B) The Secretary may waive the requirement of a  
 9       surety bond under paragraph (7) of subsection (o) in the  
 10      case of an agency or organization that provides a com-  
 11      parable surety bond under State law.

12          “(C) For purposes of payment for home health serv-  
 13      ices consisting of substitute adult day care services fur-  
 14      nished under this title, any reference to a home health  
 15      agency is deemed to be a reference to an adult day care  
 16      facility.”.

17           (3)   CONFORMING    AMENDMENTS.—Sections  
 18      1814(a)(2)(C) and 1835(a)(2)(A)(i) of such Act (42  
 19      U.S.C.    1395f(a)(2)(C)       and    42    U.S.C.  
 20      1395f(a)(2)(C)) are each amended by striking “sec-  
 21      tion 1861(m)(7)” and inserting “paragraph (7) or  
 22      (8) of section 1861(m)”.

23      (b) PAYMENT FOR SUBSTITUTE ADULT DAY CARE  
 24      SERVICES.—

1           (1) REASONABLE COST.—Section 1861(v)(1)(L)  
2       of such Act (42 U.S.C. 1395x(v)(1)(L)) is amended  
3       by adding at the end the following new clause:

4       “(x) In the case home health services consisting of  
5       substitute adult day care services, the following rules  
6       apply:

7           “(I) The Secretary shall determine each compo-  
8       nent (as defined by the Secretary) of substitute  
9       adult day care services (under subsection  
10      (uu)(1)(B)(i)) furnished to an individual under the  
11      plan of care established under subsection (m) with  
12      respect to such services.

13          “(II) The Secretary shall estimate the amount  
14      that would otherwise be payable under this subpara-  
15      graph for all home health services under that plan  
16      of care other than substitute adult day care services  
17      for a week or other period specified by the Sec-  
18      retary.

19          “(III) The total amount payable for home  
20      health services consisting of substitute adult day  
21      care services may not exceed 95 percent of the  
22      amount estimated to be payable under subclause (II)  
23      furnished under the plan by a home health agency.

24          “(IV) No payment may be made under this title  
25      for home health services consisting of substitute

1 adult day care services described in clauses (ii), (iii),  
2 and (iv) of subsection (uu)(1)(B).”.

3 (2) PROSPECTIVE PAYMENT SYSTEM.—Section  
4 1895 of such Act (42 U.S.C. 1395fff) is amended by  
5 adding at the end the following new subsection:

6 “(e) PAYMENT RATE FOR SUBSTITUTE ADULT DAY  
7 CARE SERVICES.—In the case home health services con-  
8 sisting of substitute adult day care services, the following  
9 rules apply:

10 “(1) The Secretary shall determine each compo-  
11 nent (as defined by the Secretary) of substitute  
12 adult day care services (under section  
13 1861(uu)(1)(B)(i)) furnished to an individual under  
14 the plan of care established under section 1861(m)  
15 with respect to such services.

16 “(2) The Secretary shall estimate the amount  
17 that would otherwise be payable under this section  
18 for all home health services under that plan of care  
19 other than substitute adult day care services for a  
20 week or other period specified by the Secretary.

21 “(3) The total amount payable for home health  
22 services consisting of substitute adult day care serv-  
23 ices may not exceed 95 percent of the amount esti-  
24 mated to be payable under paragraph (2) furnished  
25 under the plan by a home health agency.

1           “(4) No payment may be made under this title  
2       for home health services consisting of substitute  
3       adult day care services described in clauses (ii), (iii),  
4       and (iv) of section 1861(uu)(1)(B).”.

5       (c) ADJUSTMENT IN CASE OF OVERUTILIZATION OF  
6       SUBSTITUTE ADULT DAY CARE SERVICES.—

7           (1) MONITORING EXPENDITURES.—The Sec-  
8       retary of Health and Human Services shall monitor  
9       the expenditures made under the Medicare Program  
10      under title XVIII of the Social Security Act for  
11      home health services furnished under section  
12      1861(m) of such Act for a fiscal year beginning with  
13      fiscal year 2002, including substitute adult day care  
14      services under paragraph (8) of such section (as  
15      added by subsection (a)), and compare such expendi-  
16      tures to expenditures that the Secretary estimates  
17      would have been made for home health services for  
18      that fiscal year if subsection (a) had not been en-  
19      acted.

20          (2) REQUIRED REDUCTION IN PAYMENT  
21      RATE.—If the Secretary determines, after making  
22      the comparison under paragraph (1) and making  
23      such adjustments for changes in demographics and  
24      age of the Medicare beneficiary population as the  
25      Secretary determines appropriate, that expenditures



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1 for home health services including such substitute  
2 adult day care services exceed expenditures that  
3 would have been made for home health services fur-  
4 nished under section 1861(m) of such Act for a year  
5 if subsection (a) had not been enacted, then the Sec-  
6 retary shall adjust the rate of payment to adult day  
7 care facilities so that total expenditures for home  
8 health services furnished under such section in a fis-  
9 cal year does not exceed the Secretary's estimate of  
10 such expenditures if subsection (a) had not been en-  
11 acted.

12 (d) EFFECTIVE DATE.—The amendments made by  
13 this section shall apply to items and services furnished on  
14 or after the date that is the earlier of—

15 (1) January 1, 2001, or

16 (2) the date on which the prospective payment  
17 system, for home health services furnished under the  
18 medicare program, under section 1895 of the Social  
19 Security Act (42 U.S.C. 1395fff) is established and  
20 implemented.

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